



## COUNCIL MINUTES

February 17, 2009

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on February 17, 2009 at 5:45 p.m.

### COUNCIL PRESENT

Mayor Scott Smith  
Alex Finter  
Dina Higgins  
Kyle Jones  
Dennis Kavanaugh  
Dave Richins  
Scott Somers

### COUNCIL ABSENT

None

### OFFICERS PRESENT

Christopher Brady  
Debbie Spinner  
Linda Crocker

Invocation by Pastor Tommy Foster, Harmony Community Baptist Church.

Pledge of Allegiance was led by Councilmember Richins.

Mayor's Welcome.

Mayor Smith welcomed everyone to the meeting. A videotaped presentation was aired that outlined meeting procedures and provided attendees with instructions relative to addressing the Council.

### 1. Take action on all consent agenda items.

All items listed with an asterisk (\*) will be considered as a group by the City Council and will be enacted with one motion. There will be no separate discussion of these items unless a Councilmember or citizens requests, in which event the item will be removed from the consent agenda and considered as a separate item. If a citizen wants an item removed from the consent agenda, a blue card must be completed and given to the City Clerk prior to the Council's vote on the consent agenda.

It was moved by Councilmember Somers, seconded by Councilmember Kavanaugh, that the consent agenda items be approved.

Carried unanimously.

\*2. Approval of minutes of previous meetings as written.

Minutes of the February 2, 2009 Council meeting.

3. Take action on the following liquor license applications:

\*3a. Future for Kids

This is a one day charitable event to be held on Saturday, February 28, 2009 from 11:00 a.m. to 9:00 p.m. at Riverview Park, 2100 W. 8<sup>th</sup> Street. This is part of the Ragnar Relay Special Event. **(District 1)**

\*3b. Smart & Final #495

New Beer & Wine Store License for Smart & Final #495, 60 South Stapley Drive, Smart & Final Stores, LLC – Joseph Ovidio Cipollini, Agent. The previous Beer & Wine Store License held at this location by Smart & Final Corporation will revert back to the State. **(District 4)**

\*3c. Valero In The Zone 1

New Beer & Wine Store License for Valero In The Zone 1, 1959 East Broadway Road, One Brother 1, Inc. – Saad Nemer Saad, Agent. The previous Beer & Wine Store License held at this location by Broadway Gas Mart, LLC will revert back to the State. **(District 4)**

\*3d. Diamond's Sports Grille

New Restaurant License for Diamond's Sports Grille, 161 North Centennial Way, Diamond's Sports Bar, LLC – Randy D. Nations, Agent. The previous Restaurant License held at this location by Sluggo's Inc. will revert back to the State. **(District 4)**

\*3e. Mardenely's

New Restaurant License for Mardenely's, 223 East Brown Road, Culinary Acquisitions, LLC – Dennis Ronald Bihun Sr., Agent. The previous Restaurant License held at this location by First Press Ventures, LLC will revert back to the State. **(District 1)**

4. Take action on the following contracts:

\*4a. Purchase of Four (4) Additional Hand-held Thermal Imaging Cameras and Accessories for the Mesa Fire Department.

The Business Services Department recommends authorizing additional purchase from LN Curtis & Sons at \$49,818.00, including applicable sales tax.

\*4b. Purchase of a Replacement Breathing Air Station for the Mesa Fire Department (Quality of Life Funded).

The Business Services Department recommends awarding the contract to the lowest, responsive and responsible bidder, United Fire Equipment Company, at \$58,518.63, including applicable sales tax.

- \*4c. Term Contract for Replacement Hydraulic Cylinders for the Fleet Services Department.

The Business Services Department recommends awarding contracts to the lowest, responsive and responsible bidders as follows: McNeilus Truck & Manufacturing at \$30,566.18, Western Refuse & Recycling Equipment, Inc. at \$80,278.66, and RLS Services, Inc. at \$41,576.37, for a combined award of \$152,421.21 annually based on estimated requirements, including applicable sales tax.

- \*4d. Term Contract Renewal for LED Traffic Signal Heads and Pedestrian Signals for Warehouse Inventory as requested by the Transportation Department, Traffic Engineering Division.

The Business Services Department recommends renewal of the contract with Brown Wholesale Electric Company at \$146,200.67, including applicable sales tax.

- \*4e. Dollar Limit Increase to the Term Contract for 69kV Transmission Poles and Hardware for the Utilities Department, Electric Division.

The Business Services Department recommends increasing the dollar limit of the contract with Valmont Ind., Inc., dba Valmont-Newmark, by \$109,482.80 to \$641,828.24 annually, based on estimated requirements.

- \*4f. Term Contract for Residential and Commercial Multi-Jet Water Meters for the Utilities Department, Water Division.

The Business Services Department recommends awarding the contract to the lowest, responsive and responsible bidder, Dana Kepner Co., Inc., at \$3,381,039.36 annually, including applicable sales tax.

- \*4g. Gilbert Road and University Drive Intersection Reconstruction, City of Mesa Project No. 01-373-001. **(District 2)**

This project will widen the intersection approximately 1,200 feet in all four directions to provide three through lanes of traffic with double left turns. The improvements include a raised landscaped median on Gilbert Road, new traffic signals, roadway lighting and the relocation of Salt River Project overhead electric and underground irrigation facilities that are in conflict with the roadway widening.

Recommend award of the construction phase service contract to Hunter Contracting with a Guaranteed Maximum Price (GMP) of \$8,359,959.09 plus an additional \$835,995.91 (10% allowance for change orders) for a total award of \$9,195,955.00. Funding is available from the adopted FY 08/09 Street General Obligation Bond Program.

- \*4h. Communications Building Site Security Phase 2 Project, 161 East 6<sup>th</sup> Place, City of Mesa Project No. 07-004-002. **(District 4)**

This project will install a new automatic, electric motorized roll type gate and fencing across 6<sup>th</sup> Place west of the Communications Building. In addition, bollards will be installed near the entrance to the building and other areas at the site.

Recommend award to the low bidder, Spire Engineering LLC, in the amount of \$75,000.00 plus an additional \$7,500.00 (10% allowance for change orders) for a total award of \$82,500.00. Funding is available from a grant from the Arizona Department of Homeland Security (AZDHS).

- \*4i. Police Department Main Station Site Security, 130 North Robson, City of Mesa Project No. 07-004-003. **(District 4)**

This project will install perimeter fencing and access gates at the north parking lot of the Police Department Main Station.

Recommend award to the low bidder, Pure Construction LLC, in the amount of \$172,100.00 plus an additional \$17,210.00 (10% allowance for change orders) for a total award of \$189,310.00. Funding is available from a grant from the Arizona Department of Homeland Security (AZDHS).

- \*4j. CAP Water Treatment Plant Noise Mitigation Walls, 7750 East Brown Road, City of Mesa Project No. 07-011-002. **(District 5)**

This project will install approximately 200 linear feet of concrete masonry walls (height varies from 12.33 feet to 15.56 feet) and all other items of work necessary to complete the project to mitigate the noise levels produced by the existing pump stations at the CAP Water Treatment Plant.

Recommend award to the low bidder, Pure Construction LLC, in the amount of \$44,200.00 plus an additional \$4,420.00 (10% allowance for change orders) for a total award of \$48,620.00. Funding is available from the approved FY 08/09 Water Bond Capital Program.

5. Take action on the following resolutions:

- \*5a Vacating street right-of-way in the 400 block of West 10<sup>th</sup> Place – Resolution No. 9451. **(District 1)**

At the request of the developer, Banner Health, this portion of West 10<sup>th</sup> Place is being vacated to complete the approved site plan.

- \*5b. Granting an irrigation easement to Salt River Project across City-owned property located in the 1800 to 2200 block of East University Drive – Resolution No. 9452. **(District 2)**

This easement is necessary for SRP to relocate their facilities due to the intersection widening project.

- \*5c. Granting aerial and ground easements to Salt River Project across City-owned property located in the 1800 to 2200 block of East University Drive – Resolution No. 9453 **(District 2)**

These easements are necessary for SRP to relocate their electrical facilities due to the intersection widening project.

- \*5d. Assigning aerial easements to Salt River Project along the east side of Power Road from Adobe Street to McKellips Road – Resolution No. 9454. **(District 5)**

These easements need to be assigned to Salt River Project as the electrical facilities are not the responsibility of the City of Mesa.

- \*5e. Grant a Power Distribution Easement to Salt River Project across City-owned property located on the Falcon Field Airport property at 4911 East Falcon Drive – Resolution No. 9455. **(District 5)**

This easement is necessary for Salt River Project to provide electrical facilities to the Arizona Aircraft Painting project.

- \*5f. Reapproving and reauthorizing the City Manager to execute the White Mountain Apache Tribe Water Rights Quantification Agreement to clarify the amount of water (2,291 acre-feet per year) to be leased by the City – Resolution No. 9456.

- \*5g. Approving and authorizing the City Manager to execute an Amendment to Lease Agreement and other related declarations/certificates for Falcon 7 Development, Falcon Field Airport, in order to allow the parties, other than the City, to bear obligations of the Master Tenant Lease in the event of a default by the original tenant – Resolution No. 9457. **(District 5)**

6. Introduction of the following ordinances and setting March 2, 2009, as the date of the public hearing on these ordinances:

- \*6a. Amending various sections of the Mesa City Code regarding the following traffic modifications:

Prohibiting Left Turns From Driveways: 10-3-15 (B)

On the west side of Higley Road with centerline approximately 490 feet south of Longbow Parkway. (Higley Road north of McDowell Road) **(District 5)**

One-Way Streets, Alleys, and Driveways: 10-3-16 (B)

The driveway on the north side of Main Street with centerline approximately 155 feet west of Sycamore. (Main Street east of Dobson Road) **(District 3)**

The driveway for the Transit Center passenger drop-off area located approximately 165 feet north of Main Street and 190 feet west of Sycamore. (North of Main Street and east of Dobson Road) **(District 3)**

Special Stops Required: 10-3-17 (A)

On Germann Road from the west City limits to the east City limits. (Germann Road, south City limits, between Signal Butte Road and Meridian Road) **(District 6)**

Speed Limits (45 mph): 10-4-3

Establish a speed limit of 45 mph on Germann Road from the west City limits to the east City limits. (Germann Road, south City limits, between Signal Butte Road and Meridian Road) **(District 6)**

7. Discuss, receive public comment, and take action on the ordinances introduced at a prior Council meeting. Any citizen who wants to provide comment should submit a blue card to the Clerk before the item is voted on. If a citizen wants to comment on an item listed with an asterisk (\*), a blue card must be given to the Clerk before Council votes on the consent agenda:

- \*7a. Amending Sections 11-1-6, 11-4-3, and 11-17-6 of the Zoning Ordinance. The amendment proposes to add group foster homes on parcels in excess of twenty (20) acres as a land use classification eligible for approval by a Special Use Permit when located within the R1-90 zoning district, and set appropriate criteria for evaluation of such requests. When considered as part of the Special Use Permit application, the amendment would also permit accessory activities directly associated with a group foster home on a parcel in excess of twenty (20) acres, such as administrative offices, on-site residential buildings for staff members, education buildings, both outdoor and indoor recreation facilities, and retail activities. The proposal would also consider the use of modular buildings for the identified uses – Ordinance No. 4913.

P&Z Recommendation: Adoption. (Vote: 7-0)

- \*7b. **A08-07 (District 5)** Annexing land located south of University Drive and east of Higley Road (29.60 +/- ac). Initiated by Craig Ahlstrom for the property owner, Dreamland Golf Ltd. Partnership – Ordinance No. 4914. Staff Recommendation: Approval.

8. Take action on the following ordinance and resolution:

- 8a. Take action on an ordinance modifying the Terms and Conditions for the Sale of Utilities relating to the modifications to the Annexation Policy – Ordinance No. 4915.

In response to a question from Mayor Smith, City Attorney Debbie Spinner clarified that the Council could vote on items 8a and 8b in one motion if they so desire.

It was moved by Councilmember Richins, seconded by Vice Mayor Jones, that Ordinance No. 4915 and Resolution No. 9458 (Item 8b) be adopted.

Councilmember Kavanaugh commented that in order to remain consistent with his earlier position on this issue, he would oppose the motion. He expressed appreciation to staff and the Transportation & Infrastructure Committee for their efforts and hard work relative to this item, but noted that in his opinion, the prior policy, which established that annexation be required in order to receive utility service, is “a wiser choice” in terms of ease of administration for staff and the Council.

Mayor Smith called for the vote.

Upon tabulation of votes, it showed:

AYES - Smith-Finter-Higgins-Jones-Richins  
NAYS - Kavanaugh-Somers

Mayor Smith declared the motion carried by majority vote and Ordinance No. 4915 and Resolution No. 9458 adopted.

8b. Take action on a resolution approving Annexation Guidelines to establish standards and procedures for annexation of property into the Mesa corporate limits – Resolution No. 9458.

(See Council action under Item 8a.)

9. Take action on the following ordinances and resolution:

9a. Take action on an ordinance amending Title 5, Chapter 7 of the Mesa City Code relating to the definition of secondhand dealer, requirements applicable to secondhand dealers and pawnbrokers and creation of exclusions from requirements applicable to secondhand dealers – Ordinance No. 4916.

It was moved by Councilmember Somers, seconded by Vice Mayor Jones, that Ordinance No. 4916 be adopted.

Councilmember Finter stated that he could not support the motion for the reason that he is opposed to the provisions in the ordinance that would extend “a regulatory arm” into secondhand stores in Mesa. He commented that he would have preferred that the City engage in outreach/education efforts in this regard prior to proceeding with the ordinance. Councilmember Finter noted, however, that he supports the cost recovery provisions outlined in the ordinance. He added that he was supportive of the proposal that staff originally presented to the Council for consideration, but expressed concern that the issue “got muddled up” as the process moved forward.

Councilmember Somers stated that if the Council adopts an ordinance related to pawnshops and the purpose in doing so is to assist the Police Department in becoming more effective in tracking stolen property via reporting requirements, then it seems appropriate that certain secondhand dealers be included in that process. He also noted that the ordinance redefines who is a secondhand dealer and does not include, for example, entities such as bookstores or charitable 401 (C)(3) organizations.

Mayor Smith expressed opposition to the motion and explained that it is not because he does not support the actions of the Police Department or the portion of the ordinance related to pawnshops. He stated the opinion that government should be very careful when it expands its “regulatory reach” and that it should be done only when there is a clear and defined need. Mayor Smith commented that he is not convinced there is, in fact, such a need relative to the secondhand stores. He further noted that rather than restricting government’s reach, “this is an ordinance in search of a problem.” Mayor Smith also remarked that the manner in which secondhand stores are set up as it relates to specific items of high value is already regulated by State law and said he would have no objection if Mesa expanded its reach to ensure that such



law was enforced. He added, however, that because the proposed ordinance goes beyond what he believes is prudent for government, he would oppose items 9a, 9b and 9c.

Mayor Smith called for the vote.

Upon tabulation of votes, it showed:

AYES - Jones-Higgins-Kavanaugh-Richins-Somers  
NAYS - Smith-Finter

Mayor Smith declared the motion carried by majority vote and Ordinance No. 4916 adopted.

- 9b. Take action on an ordinance amending Title 5, Chapter 7, Section 3 of the Mesa City Code to implement a fee involving all pawnshop and secondhand dealer transaction reports filed within the Mesa Police Recovered Property Unit – Ordinance No. 4917.  
**(Continued from the January 26, 2009 Council meeting.)**

It was moved by Councilmember Kavanaugh, seconded by Councilmember Richins, that Ordinance No. 4917 be adopted.

In response to a series of questions from Councilmember Higgins, City Attorney Debbie Spinner provided a brief overview of items 9a, 9b and 9c. She clarified that 9a sets out the definition of secondhand stores and the reporting process; 9b establishes the mechanism for setting a fee involving all pawnshop and secondhand dealer transaction reports filed with the Police Department; and 9c is the resolution establishing such a fee.

Mayor Smith called for the vote.

Upon tabulation of votes, it showed:

AYES - Jones-Higgins-Kavanaugh-Richins-Somers  
NAYS - Smith-Finter

Mayor Smith declared the motion carried by majority vote and Ordinance No. 4917 adopted.

- 9c. Take action on a resolution modifying fees and charges for the Police Department to include pawnshop and secondhand dealer transaction fees – Resolution No. 9459.  
**(Continued from the January 26, 2009 Council meeting.)**

It was moved by Councilmember Richins, seconded by Vice Mayor Jones, that Resolution No. 9459 be adopted.

Upon tabulation of votes, it showed:

AYES - Jones-Higgins-Kavanaugh-Richins-Somers  
NAYS - Smith-Finter

Mayor Smith declared the motion carried by majority vote and Resolution No. 9459 adopted.



\*10. Assign delinquent accounts to collection services for the three-month period ending December 31, 2008, totaling \$755,879.

11. Take action on the following subdivision plats:

\*11a. "MAP OF DEDICATION FOR SAGUARO VIEW ESTATES" – **(District 5)** 7343 East Hermosa Vista Drive (south side) located north and east of McKellips Road and Power Road. 13 R1-15-PAD single residence lots (12.14 ac.) Donald and Susan Sutherland, owners; Clint Garner, Allen Consulting Engineers, engineer.

\*11b. "MAIN STREET PLAZA" – **(District 5)** 6233 East Main Street (south side) located south and east of Main Street and Recker Road. (9.57 ac.) Plaza Properties, Inc., Michael A. Pollack, owner; David Klein, Superior Surveying Services, surveyor.

12. Items from citizens present:

There were no items from citizens present.

13. Adjournment.

Without objection, the meeting adjourned at 6:03 p.m.

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SCOTT SMITH, MAYOR

ATTEST:

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LINDA CROCKER, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the City Council of Mesa, Arizona, held on the 17<sup>th</sup> day of February 2009. I further certify that the meeting was duly called and held and that a quorum was present.

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LINDA CROCKER, CITY CLERK

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